

**CHAPTER 135****(SB 104)**

AN ACT relating to agriculture.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 150.740 is amended to read as follows:

- (1) There shall be a ban on the importation of live members of the animal family Cervidae into the Commonwealth that have not been subject to a program of surveillance and identification for cervid chronic wasting disease (CWD) that meets or exceeds:
  - (a) The requirements of the Kentucky Cervid CWD Surveillance and Identification (CCWDSI) Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and
  - (b) Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.
- (2) The Kentucky Department of Agriculture shall be responsible for authorizing importation of the members of the animal family Cervidae into the Commonwealth that have been subject to a program of surveillance and identification for cervid CWD that meets or exceeds:
  - (a) The requirements of the Kentucky CCWDSI Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and
  - (b) Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.
- (3) Members of the animal family Cervidae shall not be eligible for importation into the Commonwealth unless the program of surveillance and identification for cervid CWD to which they have been subject:
  - (a) Has been certified by the exporting state's state veterinarian or agency having jurisdiction over that state's surveillance and identification program;
  - (b) Has been approved by the Kentucky state veterinarian as meeting or exceeding the standards imposed under the Kentucky CCWDSI Program; and
  - (c) Meets, at minimum, the following requirements:
    1. The program shall require cervid owners to obtain identification and laboratory diagnosis from brain tissue as directed by the exporting state's state veterinarian or agency with jurisdiction for cervids twelve (12) months of age or greater that:
      - a. Display clinical signs of CWD;
      - b. Die, including deaths by slaughter or by hunting, including hunting on hunting preserves; or
      - c. Are ill or injured regardless of whether the illness or injury results in death; and
    2. The program shall require cervid owners to obtain cervids from herds that have been monitored for at least five (5) years and that have complied with the standards contained in the Kentucky CCWDSI Program.
- (4) Cervids originating from a state that has reported a confirmed case of CWD in wild or captive cervids shall not be imported into Kentucky until The United States Department of Agriculture approves:
  - (a) Regulations that allow importation from those states; and
  - (b) A live test for CWD that is available for live testing of cervids.
- (5) Importation of members of the animal family Cervidae into the Commonwealth shall be consistent with this section and with administrative regulations promulgated by the Kentucky Department of Agriculture in cooperation with the Kentucky Department of Fish and Wildlife Resources.

- (6) A person shall be guilty of a Class D felony upon conviction for violating this section. Upon conviction of a second violation of this section and in addition to all other penalties, a person shall be permanently ineligible for renewal of a captive cervid permit. On or before November 1 of each year, the Department of Fish and Wildlife Resources and the Department of Agriculture, Office of the State Veterinarian, respectively shall issue reports to the Interim Joint Committee on Agriculture and *the Interim Joint Committee on Natural Resources and Environment* on the status of chronic wasting disease, and the reports may include the status of other animal or wildlife diseases in Kentucky and the United States. The reports shall be used for the purpose of determining the need for modifications to the statutory ban on the importation of cervids into the Commonwealth.
- (7) The Department of Fish and Wildlife Resources shall have the authority to immediately, and without compensation to the owner, seize captive cervids that have been imported into the Commonwealth contrary to this section. The individual whose cervids were seized may request an administrative hearing pursuant to KRS Chapter 13B within thirty (30) days of the department's seizure and may appeal the final decision to Franklin Circuit Court in accordance with KRS Chapter 13B. Pending the final outcome of all appeals, the seized cervids may be disposed of by the department without compensation to the owner.
- (8) The department shall have the authority to immediately, and without compensation to the owner, seize and destroy captive cervids that are in the process of being imported into the Commonwealth contrary to this section.

➔Section 2. KRS 151.7282 is amended to read as follows:

By July 1 of each year preceding the convening of the General Assembly in even-numbered-year regular session, the authority shall provide the projected six (6) year construction and preconstruction program to the Interim Joint Committee on ~~Agriculture and~~ Natural Resources *and Environment*, the Capital Planning Advisory Board, and the Interim Joint Committee on Appropriations and Revenue.

➔Section 3. KRS 224.10-660 is amended to read as follows:

- (1) The Kentucky Recycling and Marketing Assistance Program, referred to in this section as the "program," is created to develop a recycling infrastructure within the Commonwealth. The program shall:
- (a) Encourage the collection, processing, and marketing of recovered materials;
  - (b) Provide assistance for the development of community and regional recycling;
  - (c) Identify resources to help market recyclables; and
  - (d) Promote the development of the market for recyclables.
- (2) The Environmental and Public Protection Cabinet shall administer the program and assist local governments and commercial businesses seeking to recycle materials.
- (3) The secretary of the Environmental and Public Protection Cabinet shall create a Kentucky Recycling and Marketing Assistance Advisory Committee to act in an advisory capacity to the cabinet. In addition to its other duties, this committee shall develop and submit an annual report by October 1 to the Interim *Joint* Committee on ~~Agriculture and~~ Natural Resources *and Environment*.

➔Section 4. KRS 224.43-080 is amended to read as follows:

- (1) On July 15, 1994, and annually thereafter, each publisher shall submit a report to the cabinet. The report shall indicate the amount of newsprint used in the preceding year, its recycled content, along with any other information required by the cabinet.
- (2) The Governor shall appoint a Newsprint Recycling Task Force consisting of the secretary of the Environmental and Public Protection Cabinet or a designee; the chairman of the Kentucky Recycling and Marketing Assistance Advisory Committee or a designee; the executive director of the Kentucky Press Association or a designee; three (3) members from environmental organizations; and five (5) members representing the Kentucky newsprint publishing industry and newsprint manufacturers doing business in Kentucky. A list of names of potential task force members shall be provided by the president of the Kentucky Press Association.
- (3) The task force members shall each serve a two (2) year term. The initial five (5) industry representatives appointments shall consist of two (2) two (2) year terms and three (3) one (1) year terms.

- (4) The Newsprint Recycling Task Force shall meet as necessary to monitor the use of newsprint in the state for the following goals:
- (a) To increase the demand for recycled newsprint in Kentucky;
  - (b) To increase the availability for the product;
  - (c) To establish Kentucky as a reliable source of old newsprint for recycling; and
  - (d) To identify, develop, and advance initiatives to recycle and reuse discarded newspapers and paper products with an emphasis on recycling these materials instead of diverting them for disposal.
- (5) The Newsprint Recycling Task Force and the Kentucky Press Association shall encourage all Kentucky industries and businesses, their trade or professional organizations, and all public agencies at the state and local level to increase their use of recycled newsprint.
- (6) The Newsprint Recycling Task Force shall take steps to attract a recycled newsprint mill or related facility to Kentucky by identifying potential sites and potential manufacturers. The task force shall also work with the Kentucky Recycling and Marketing Assistance Advisory Committee in recommending appropriate economic and tax incentives to encourage such a project.
- (7) The Newsprint Recycling Task Force shall promote the increased recovery of old newspapers and, with the Commonwealth of Kentucky representatives, work with communities to develop processing and collection programs to provide quality material to the marketplace.
- ~~{(8) The Newsprint Recycling Task Force shall report to the Interim Joint Committee on Agriculture and Natural Resources by October 1, 1995, on the availability and cost of adequate supplies of newsprint which contain a recycled content of fifty percent (50%) or more, or any other information or recommendations deemed appropriate.}~~

➔Section 5. KRS 247.220 is amended to read as follows:

- (1) The Commissioner of Agriculture shall make grants of state funds to qualified local agricultural fairs on a matching basis, to be used by them to pay premium awards for exhibits and displays of domestic livestock, poultry, harness horse racing, other horse events, and agricultural products. The premiums actually awarded shall conform to those appearing on the premium list issued by the fair.
- (2) The state may provide funds for use in the establishment of new facilities and improvement of existing facilities for use in conducting events at local agricultural fairs as provided by this section. No grant for buildings shall be made until the local fair board has complied with the local fair program and qualified for the state grant as provided in subsection (5) of this section. Grants for facilities shall be made under regulations promulgated by the Fair Council and the Commissioner of Agriculture. In no event shall the allocation for facilities result in a decrease in the number of approved agricultural classes or premiums.
- (3) There shall be a Fair Council in the Department of Agriculture. The council shall act in an advisory capacity to the Commissioner in all matters pertaining to the administration of the department's fair program. It shall be called into session when there are matters for its consideration. It shall meet at least twice each calendar year at Frankfort or at any other place that may be determined.
- (4) (a) The council shall be composed of the:
  1. Commissioner as chairman ex officio;
  2. Presidents or their designated representatives of the following state groups:
    - a. Kentucky Livestock Improvement Association;
    - b. Kentucky Farm Bureau Federation;
    - c. Kentucky Association of Fairs and Horse Shows, Inc.;
    - d. Kentucky Harness Horse Association;
    - e. American Saddlebred Horse Association; and
    - f. Kentucky Walking Horse Association;

3. Director of Vocational Agriculture Education;
  4. Dean of the College of Agriculture of the University of Kentucky; and
  5. *Co-chairs*~~[Chairmen]~~ of the~~[-Senate and House]~~ Interim Joint Committee on Agriculture~~[-and Natural Resources]~~.
- (b) The Commissioner may, with the concurrence of a majority of the members of the council, appoint additional members to the council.
- (5) To qualify for a grant of state funds, a fair shall meet standards set by the Commissioner and his advisory council whose approval may be given only if the fair:
- (a) Provides in its bylaws for holding an annual fair running for at least three (3) days;
  - (b) Presents, through the medium of youth organizations such as 4-H clubs, Future Farmers of America, and other similar organizations, an educational program concerning the production and marketing of the livestock, poultry, and horse industries;
  - (c) Complies with all administrative regulations which the Department of Agriculture is hereby authorized to promulgate; and
  - (d) Appoints one (1) or more members to its fair board from local livestock associations, horsemen's associations, and county farm bureaus, and selects one (1) or more county extension agents and vocational agriculture teachers for counties served by the fair as members of the board. Wherever local livestock associations, horsemen's associations, and farm bureaus are in existence, appointees are to be nominated to the fair board by these organizations. Where fairs serve an area, appointments may be made from all counties within the particular area. It shall be the responsibility of the appointees to aid in establishing premium lists and planning agricultural exhibits.
- (6) Any fair receiving a grant of state funds shall file with the director of the Division of Show and Fair Promotion in the Department of Agriculture, by December 1 of the year in which the grant is received, satisfactory proof that all state premium awards have been paid and a certified notarized financial report submitted by the treasurer of the local fair association.

➔Section 6. KRS 248.709 is amended to read as follows:

The board's duties shall include, but not be limited to:

- (1) Administering the agricultural development fund, except as provided in KRS 248.717(2);
- (2) Receiving requests and applications for funds and authorizing the distribution of funds. The board may receive applications from institutions of public postsecondary education for financial and technical assistance in conducting alternative crop development research. The board shall assist the applicants in obtaining any necessary federal permits that may be required to conduct alternative crop research. A recipient institution shall report the status and progress of the alternative crop development research to the board, the Interim Joint Committee on Agriculture~~[-and Natural Resources]~~, and the Tobacco Settlement Agreement Fund Oversight Committee. The board shall promulgate administrative regulations relating to growing and researching alternative crops at the selected postsecondary institution, and shall adopt any applicable federal regulations;
- (3) Developing guidelines and criteria for eligibility for and disbursement of funds, the types of direct and indirect economic assistance to be awarded, and procedures for applying for funds and reviewing applications for assistance;
- (4) Ensuring that each county agricultural development council's plans and county recommendations and applications receive major consideration in decisions on use of a county's funds;
- (5) Completing a comprehensive plan:
  - (a) The comprehensive plan shall propose short-term and long-term goals, strategies, and investments in Kentucky agriculture that will assist farmers in remaining competitive in existing and new enterprises. The comprehensive plan shall identify a diversified mix of enterprises that are profitable to farmers and shall determine the investments necessary to support the viability of those enterprises. The plan shall be reviewed by the General Assembly and the subcommittee created in KRS 248.723. The subcommittee may issue comment on the plan. However, the board may act without General Assembly approval;

- (b) As soon as possible following enactment of KRS 248.701 to 248.727, a plan of action shall be devised to meet the immediate needs of the Commonwealth's farmers and tobacco impacted communities most adversely affected by tobacco losses. A set of priorities shall be established in the plan of action to implement and fund programs to meet those needs as soon as practical; and
  - (c) Notwithstanding the provisions of 2000 Ky. Acts ch. 546, immediate funding needs may be addressed and funded before a comprehensive or strategic plan is completed. Proposals from an applicant may be approved by the board if they meet the criteria established in KRS 248.713;
- (6) Preparing a biennial budget request in accordance with KRS Chapter 48;
  - (7) Working with other governmental agencies to maximize the financial and economic impact that the programs implemented by the board will have and to maximize receipt of federal and other funds to the agriculture community in the Commonwealth;
  - (8) Promulgating administrative regulations relating to carrying out the purposes of KRS 248.701 to 248.727;
  - (9) Hiring a director to carry out the will of the board;
  - (10) Ensuring the necessary mechanisms are in place for the committees created by KRS 248.715 to function effectively;
  - (11) Contracting with other persons or entities if necessary to effectuate the board's purposes and functions;
  - (12) Enacting bylaws concerning the conduct of the board's business and other administrative procedures as the board deems necessary;
  - (13) Developing criteria to evaluate the success of the board's programs and expenditures to applicants. The criteria shall be simple, easily measured, and easily understood. Criteria should include number of families farming, increases in farm income attributable to state programs, the number of diversified operations, and the number of different types of diversified efforts within a county, including the efforts that have failed;
  - (14) Providing reports of each meeting, along with expenditures approved or denied, within thirty (30) days of the meeting, to the Tobacco Settlement Agreement Fund Oversight Committee created by KRS 248.723. These reports shall contain detailed information relating to each expenditure by the board and detailed information on each application for funding a project or initiative by the board and decision by the board regarding each proposal, except information that may violate confidentiality. This information shall be provided by electronic format as prescribed by the Legislative Research Commission;
  - (15) Submitting an annual written report to the Governor, the Commissioner of Agriculture, the Tobacco Settlement Agreement Fund Oversight Committee, and the Legislative Research Commission regarding the administrative, financial, and programmatic activities of the board; and
  - (16) Making recommendations to the General Assembly through the Legislative Research Commission on possible adjustments to the funding formula for county allocations and the percent allocated to counties as provided in KRS 248.703.

➔Section 7. KRS 260.032 is amended to read as follows:

The Commissioner of the Kentucky Department of Agriculture shall submit an annual report to the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Agriculture~~[-and Natural Resources]~~, which includes but is not limited to:

- (1) The amount of funding received for the Kentucky Farmers Market Nutrition Program;
- (2) The economic impact of the program;
- (3) Strategies implemented to market the program and improve nutrition; and
- (4) Statistics related to the number of individuals served and farmers' markets participating in the program.

➔Section 8. KRS 260.853 is amended to read as follows:

- (1) The Department of Agriculture shall promote the research and development of markets for Kentucky industrial hemp and hemp products after the selection and establishment of the industrial hemp research program and the Industrial Hemp Commission, and provided that adequate funds are available for these purposes from the

industrial hemp program fund. The department shall work cooperatively with selected Kentucky university or universities' agricultural research programs utilizing the expertise of the university or universities in the area of agricultural research.

- (2) The Council on Postsecondary Education shall select a university or universities where the industrial hemp research program is to be established, after proposals are considered from all interested universities with agriculture departments in Kentucky.
- (3) The selected institutions' industrial hemp research program shall undertake research of industrial hemp production in the state. The department shall assist the industrial hemp research program in obtaining the necessary federal permits from the United States Drug Enforcement Agency or appropriate federal agency. In undertaking the industrial hemp research program, the university or universities are authorized to:
  - (a) Grow industrial hemp to conduct agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp for commercial products, including but not limited to hemp seed, paper, clothing, and oils;
  - (b) Conduct seed research on various types of industrial hemp that are best suited to be grown in Kentucky, including but not limited to seed availability, creation of Kentucky hybrid types, in-the-ground variety trials and seed production;
  - (c) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the Commonwealth;
  - (d) Report on the estimated value-added benefits, including environmental benefits, that Kentucky businesses would reap by having an industrial hemp market of Kentucky-grown industrial hemp varieties in the Commonwealth;
  - (e) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;
  - (f) Research and promote Kentucky industrial hemp and hemp seed on the world market that can be grown on farms in the Commonwealth; and
  - (g) Study the feasibility of attracting private funding for the Kentucky industrial hemp research program.
- (4) The authorization granted in subsection (3) of this section shall not subject the industrial hemp research program or the selected university or universities where it is located to any criminal liability under the controlled substances laws of the Commonwealth. This exemption from criminal liability is a limited exemption that shall be strictly construed and that shall not apply to any activities of the industrial hemp research program or the selected university or universities that are not expressly permitted in the authorization.
- (5) The authorization granted in subsection (3) of this section shall not alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.
- (6) The selected university or universities of the industrial hemp research program shall notify the headquarters of the Department of Kentucky State Police, the local barracks of the Department of Kentucky State Police, and all other local law enforcement agencies of the duration, size, and location of all industrial hemp plots.
- (7) The Commissioner and the university or universities may cooperatively seek funds from both public and private sources to implement this section. The funds shall be deposited into the industrial hemp program fund.
- (8) By October 1, 2001, and annually thereafter, the university or universities shall report on the status and progress of the industrial hemp research program authorized by this section to the Commissioner, the Industrial Hemp Commission, and the Interim Joint Committee on Agriculture, and *the Interim Joint Committee on Natural Resources and Environment*.

➔Section 9. KRS 260.863 is amended to read as follows:

- (1) The commission shall develop recommendations on industrial hemp legislation by December 15, 2001, and annually thereafter~~+~~ shall report on the recommendations to the Governor, the Interim Joint Committee on Agriculture, *the Interim Joint Committee on*~~and~~ Natural Resources *and Environment*, and to the Legislative Research Commission with respect to industrial hemp policies and practices that will result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry. These policies and practices shall, at a minimum, address the following:

- (a) Federal laws and regulatory constraints;
  - (b) The economic and financial feasibility of an industrial hemp market in Kentucky;
  - (c) Kentucky businesses that utilize industrial hemp;
  - (d) Examination of research on industrial hemp production and utilization;
  - (e) The potential for globally marketing Kentucky industrial hemp;
  - (f) Feasibility study of private funding for the Kentucky industrial hemp research program;
  - (g) Law enforcement concerns;
  - (h) Statutory and regulatory schemes for growing of industrial hemp by private producers; and
  - (i) Technical support and education about industrial hemp.
- (2) The commission shall also continue to monitor the research and development of industrial hemp in the United States and the Kentucky industrial hemp research program.

➔Section 10. KRS 351.1055 is amended to read as follows:

- (1) There is hereby established a Mine Equipment Review Panel attached to the Department for Natural Resources in the Environmental and Public Protection Cabinet.
- (2) The Mine Equipment Review Panel shall be a permanent panel of recognized experts who shall review and make recommendations annually to the executive director of the Office of Mine Safety and Licensing and the Interim Joint Committee on ~~Agriculture and~~ Natural Resources **and Environment** regarding best available mine safety technologies, including but not limited to wireless tracking and communications devices for use by miners in underground mines. Subject to budgetary constraints and approval by the United States Mine Safety and Health Administration (MSHA), if there is no existing law to the contrary, the commissioner may implement the recommendations of the panel. Based on the recommendations provided by the panel, the executive director shall comprise a list of commercially available mine safety equipment, including wireless tracking and communications devices that may be approved for use by coal miners.
- (3) The panel shall meet at the call of the chair. The chair of the panel shall be the executive director of mine safety and licensing. Members of the panel shall serve without pay, but shall be entitled to reimbursement of travel-related expenses.
- (4) The Mine Equipment Review Panel shall be composed of the following members, who shall be appointed by the commissioner not less than thirty (30) days after July 12, 2006:
  - (a) One (1) member shall represent the National Institute of Occupational Safety and Health;
  - (b) One (1) member shall represent the federal Mine Safety and Health Administration;
  - (c) One (1) member shall represent the coal industry;
  - (d) One (1) member shall be appointed from the membership of the United Mine Workers of America and shall represent mine labor, preferably a member of a Kentucky mine rescue team;
  - (e) One (1) member shall represent the Department of Mining Engineering at the University of Kentucky; and
  - (f) One (1) member shall be the executive director of the Office of Mine Safety and Licensing.
- (5) The Mine Equipment Review Panel shall provide initial recommendations to the executive director of the Office of Mine Safety and Licensing not more than one hundred twenty (120) days after the panel members have been appointed and the panel is duly constituted to conduct business. Periodically, the panel shall review and make recommendations to the executive director on changes to or innovations in mine safety equipment that could be deployed in coal mines.

➔Section 11. KRS 363.9055 is amended to read as follows:

- (1) As used in this section, "biodiesel fuel" means a biodegradable, combustible liquid fuel derived from renewable fats and vegetable oils that meets ASTM specification PS 121-99 and is suitable for blending with petroleum-based diesel fuel for use in diesel engines.

- (2) The General Assembly strongly encourages that, beginning on January 1, 2006, all diesel fuel sold or offered for sale in the Commonwealth and reformulated to achieve federally mandated sulfur reduction requirements use biodiesel in a blend not less than two percent (2%) by volume to meet those requirements.
- ~~{(3) By August 31, 2003, and at least annually thereafter until the 2006 Regular Session of the General Assembly, the Interim Joint Committee on Agriculture and Natural Resources shall receive a report on the petroleum refining industry's progress toward achieving the federally mandated diesel fuel sulfur reductions. The report shall include information on the use of biodiesel to help meet the reductions. The committee shall request report information from relevant sources, including but not limited to the American Petroleum Institute and petroleum refiners that produce diesel fuel for state, national, or international sale.}~~

**Signed by Governor April 13, 2010.**